

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)
Plaintiff,) Case No. 8:06CR283
vs.)
LELAND L. HENDERSON,)
Defendant.) ORDER

This case is before the court on the defendant's Motion for Examination and Determination of Defendant's Mental Competency [49], requesting that the court order the defendant be examined pursuant to 18 U.S.C. § 4241.

On August 15, 2007, following an evidentiary hearing, I granted the Motion and ordered [53] commitment of the defendant to the Attorney General for placement in a suitable facility to be examined for a reasonable period of time, not to exceed four (4) months, to determine whether defendant is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceeding against him, or to assist properly in his defense.

On January 22, 2007, I received a report from the Federal Bureau of Prisons which included the ordered forensic evaluation.

On February 20, 2008, hearing was held on whether the defendant was mentally competent to be able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. The court received into evidence a

forensic evaluation (Ex. 1), copies of which had been previously provided to counsel of record. No additional evidence was adduced.

I find by a preponderance of the evidence that the defendant is not suffering from a mental disease or defect that renders him mentally incompetent to understand the nature and consequences of the proceeding against him, or to assist properly in his defense, pursuant to 18 U.S.C. § 4241.

IT IS ORDERED:

1. The defendant is not suffering from any mental disease or defect which renders him mentally incompetent to understand the nature and consequences of the proceedings against him or to assist properly in his defense pursuant to 18 U.S.C. § 4241.
2. This case will be progressed by separate order.

Pursuant to NECrimR 57.2, a party may appeal this order by filing a "Statement of Appeal of Magistrate Judge's Order" within ten (10) calendar days after being served with the order. The party shall specifically state the order or portion thereof appealed from and the basis of the appeal. The appealing party shall file contemporaneously with the statement of appeal a brief setting forth the party's arguments that the magistrate judge's order ***is clearly erroneous or contrary to law***. The filing of a statement of appeal does not automatically stay the magistrate judge's order pending appeal. See NECrimR 57.2(d).

Dated this 20th day of February 2008.

BY THE COURT:

s/ F. A. Gossett
United States Magistrate Judge